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FISCAL IMPACT STATEMENT

LS 6538

BILL NUMBER: SB 132

NOTE PREPARED: Feb 21, 2012

BILL AMENDED: Feb 21, 2012

SUBJECT: Water Utility Resource Data.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Wolkins

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires each water utility that provides water service to the public in Indiana for a fee to annually submit to the Indiana Utility Regulatory Commission (IURC) a report on the following:

- (1) The types of use of the water resources used by the utility in providing water service to Indiana customers.
- (2) The utility's operations and maintenance costs in providing water service to Indiana customers. It allows the IURC to prescribe the process, deadlines, and other requirements for submitting the annual reports.

It requires the IURC to collect in each annual report certain information concerning each water utility's plant in service, use of water resources, and sources of funding. The bill requires the IURC to include a summary of the data and information contained in the reports in: (1) an annual report to the Legislative Council; and (2) the Commission's annual report on the water and wastewater industries provided to the Regulatory Flexibility Committee. It provides that in making the required reports, the IURC shall: (1) use aggregated data to protect the confidential information of individual water utilities; and (2) include in the reports recommendations concerning the use of financial resources by water utilities, necessary infrastructure investments by water utilities, and actions to minimize impacts on rates paid by water and wastewater customers. The bill authorizes the IURC to adopt rules to implement the reporting requirements.

It excludes an underground aquifer or water in an underground aquifer from the definition of "watercourse".

Effective Date: March 30, 2008 (retroactive); Upon passage.

Explanation of State Expenditures: *IURC:* This bill allows the IURC to adopt rules to implement certain

reporting requirements outlined in the bill. It requires the IURC to include a summary of the data and information contained in the reports in an annual report to the Legislative Council and in the IURC's annual report on the water and wastewater industries provided to the Regulatory Flexibility Committee. The IURC's current level of resources should be sufficient to implement this provision.

Explanation of State Revenues:

Explanation of Local Expenditures: This bill could increase local expenditures by an indeterminable amount. The bill would require municipally owned utilities to annually submit to the IURC a report on the municipally owned utility's operations and use of water resources in providing water service to its Indiana customers.

Current statute provides that a watercourse includes lakes, rivers, streams, and any other body of water. On November 22, 2011, the Indiana Supreme Court in the case of *Town of Avon v. West Central Conservatory District, et. al.* ruled that an aquifer is a watercourse under Indiana law. This bill modifies the definition of a watercourse in current statute to state that the term does *not* include an underground aquifer.

In 2008, Avon passed ordinance No 2008-8 to exercise Avon's power to establish, maintain, control, and regulate the taking of water from a watercourse both inside and within 10 miles of Avon's municipal limits. The ordinance prohibits taking water from a watercourse for "retail, wholesale, or mass distribution" unless done by or on behalf of Avon. The ordinance defined the term "watercourse" to include an aquifer.

By modifying the definition of a watercourse, this bill may impact the current Avon ordinance.

Explanation of Local Revenues:

State Agencies Affected: IURC.

Local Agencies Affected: Municipally owned utilities; Town of Avon.

Information Sources: Town of Avon v. West Central Conservatory District et. al., No 32S05-1104-PL-217 (IN.S.CT.2011).

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